

Amendment and Response Under 37 C.F.R. 1.116

Applicant: Wilson T. Asfora

Serial No.: 09/633,573

Filed: August 4, 2000

Docket No.: M190.236.101 / P0030090.01

Title: SUBDURAL VACUUM PORT SYSTEM

REMARKS

This is responsive to the Final Office Action mailed December 10, 2007. In that Office Action, claim 2 was objected to due to a minor informality. Claims 1 and 2 were rejected under 35 U.S.C. §103(a) as being unpatentable over Swann et al., U.S. Patent No. 4,646,752 ("Swann") in view of Fleckenstein, U.S. Patent No. 6,454,774 ("Fleckenstein") and Deutsch et al., U.S. Patent No. 4,480,997 ("Deutsch"). Claims 4, 5, 34, 35, 42, and 44-48 were rejected under 35 U.S.C. §103(a) as being unpatentable over Swann, Fleckenstein, Deutsch, and further in view of Akers, U.S. Patent No. 3,650,551 ("Akers"). Claims 6-9, 38, and 39 were rejected under 35 U.S.C. §103(a) as being unpatentable over Swann, Fleckenstein, Deutsch, and Akers in view of Lake, U.S. Patent No. 3,766,910 ("Lake"). Claims 11, 12, and 43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Swann, Fleckenstein, Deutsch, Akers, and Lake and further in view of McNeil, U.S. Patent No. 4,828,546 ("McNeil").

With this Response, claims 11 and 12 have been cancelled, and claims 2, 6, 9, and 43 have been amended. Claims 1, 2, 4-9, 34, 35, 38, 39, 42-48 remain pending in the application and are presented for reconsideration and allowance.

Objection to Claims

Claim 2 was objected to as containing a typographical error. With this Response, claim 2 has been amended to remove the unintentional error. Withdrawal of the objection of claim 2 is respectfully requested.

35 U.S.C. §103 Rejections

In rejecting claim 1, the Office Action asserts that Deutsch teaches "self-tapping threads (18) and a longitudinal groove (24) extending through the threads that creates a cutting surface." Applicant respectfully disagrees. While Deutsch may disclose a dental post 10/310 having threads 18/318 formed along a stem 12/312 along with a slot 24/324/327, Deutsch does not teach that the slot 24/324/327 is a groove that defines thread cutting surfaces as set forth in claim 1. To the contrary, Deutsch states that the slots 24/324/327 are included for providing a venting

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space and/or for relative yielding movement of the threads during insertion. *Deutsch, col. 3, ll. 38-54; col. 11, ll. 4-16*. Thus, Deutsch does not teach “a longitudinal groove extending through the self-tapping threads to define thread cutting surfaces” features of claim 1. Because each and every element of claim 1 is not present in the cited art, it is respectfully submitted that claim 1 is allowable, as are claims 2, 4, 5, 34, 35, 42, 44, and 46-48 depending from claim 1.

Independent claim 6 has been amended to recite the features of now cancelled claims 11 and 12, including a negative pressure device as a suction bulb, a check valve, and a cap. In rejecting claims 11 and 12, the Office Action references McNeil as disclosing a bulb evacuator. While McNeil may describe a bulb evacuator for close wound suction, it is respectfully submitted that one of skill would not reasonably consider modifying the combination of Swann, Fleckenstein, Deutsch, Akers and Lake in view of McNeil. None of Swann, Fleckenstein, Deutsch, Akers or Lake relate to suctioning of material, let alone evacuating fluid from a subdural space. In other words, it is respectfully submitted that assertions in the Office Action that “it would have been obvious to one having ordinary skill in the art to have modified the kit for evacuating fluid from a subdural space taught by Swann [], Fleckenstein [], Deutsch [], Akers and Lake [] by incorporating a bulb evacuator” is misplaced. No such kit for evacuating fluid, let alone for evacuating fluid from a subdural space, is taught in any of the cited references. As such, it is respectfully submitted that claim 6 is allowable, as are claims 7-9, 38, 39, and 43 depending from claim 6.

In rejecting independent claim 45, the Office Action does not identify where in the cited art a port device including a tubular portion having a lumen having a constant diameter, as otherwise set forth in claim 45, is taught. In fact, no such teaching exists. Pointedly, the lumens of Swann, Fleckenstein, and Akers have a varying diameter; the “slot” of Deutsch is likely also of varying diameter, and does not extend through both the proximal and distal ends of the post as set forth in claim 45. Thus, it is respectfully submitted that claim 45 is allowable.

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CONCLUSION

In view of the above, Applicant respectfully submits that pending claims 1, 2, 4-9, 34, 35, 38, 39, 42-48 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1, 2, 4-9, 11, 12, 34, 35, 38, 39, 42-48 are respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

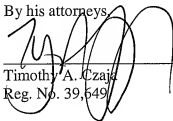
Any inquiry regarding this Amendment and Response should be directed to Timothy A. Czaja at Telephone No. (612) 573-2004, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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TAC:jms